

Conference Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE BILL 2030

AN ACT

AMENDING SECTIONS 15-191.01, 15-232 AND 15-1803, ARIZONA REVISED STATUTES;
AMENDING TITLE 15, CHAPTER 14, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 15-1825; AMENDING SECTIONS 46-801 AND 46-803, ARIZONA REVISED
STATUTES; RELATING TO PUBLIC PROGRAM ELIGIBILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

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May 20, 2005

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington Street
Phoenix, Arizona 85007

Re: House Bill 2030: public programs; citizenship

Dear Speaker Weiers:

Today I vetoed House Bill 2030, related to citizenship requirements for certain public programs.

While I agree that public programs should not be available to those who consciously decide to come here illegally, this bill goes too far by punishing even long time residents of this state who were brought here as small children by their parents.

I agree with the comments of United States Senator Orrin Hatch (R, UT) when he proposed the Development, Relief and Education for Alien Minors ("DREAM") Act in 2003 to the United States Congress. In discussing what he described as the catch-22 situation faced by certain high school graduates who came here illegally due to choices their parents made, Senator Hatch said, "Each year about fifty thousand young undocumented immigrants graduate from high school in the United States. Most of them came to this country with their parents as small children and have been raised here just like their U.S. citizen classmates. . . . We have a choice to either keep these talented young people underground, or give them a chance to contribute to the United States. I believe that our laws should not discourage these bright young minds from seeking higher education."

Unfortunately, House Bill 2030 does just that. For these and other reasons, it should not become law.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal line extending to the right.

Janet Napolitano
Governor

JN:TN/jm

cc: The Honorable Ken Bennett
The Honorable Tom Boone

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-191.01, Arizona Revised Statutes, is amended to
3 read:

4 15-191.01. Family literacy program; procedures; curriculum;
5 eligibility; report

6 A. The family literacy program is established in the state board of
7 education through the division of adult education to increase the basic
8 academic and literacy skills of eligible parents and their preschool children
9 in accordance with this article. The state board of education shall
10 establish family literacy projects as part of the overall program at
11 locations where there is a high incidence of economic and educational
12 disadvantage as determined by the state board of education in consultation
13 with the department of economic security and, as appropriate, other state
14 agencies.

15 B. The state board of education shall adopt procedures necessary to
16 implement the family literacy program.

17 C. The state board of education shall establish guidelines for
18 requiring program participants to engage in community service activities in
19 exchange for benefits received from the program. Participants shall be
20 allowed to choose from a variety of community and faith-based service
21 providers that are under contract with the department to provide community
22 service opportunities or program services. Participants shall be allowed and
23 encouraged to engage in community services within their own communities.
24 Participants shall be allowed to fulfill the requirements of this subdivision
25 SUBSECTION by providing community services to the program from which they
26 received services.

27 D. THE STATE BOARD OF EDUCATION SHALL submit an annual report by
28 December 31 to the governor, the speaker of the house of representatives and
29 the president of the senate regarding the community service activities of
30 program participants pursuant to subsection C, including information on the
31 number of participants, the types of community service performed and the
32 number of hours spent in community service activities.

33 E. Local education agencies and adult education programs funded by the
34 department of education are eligible for grants if the state board of
35 education determines that a high percentage of adults in the county, the
36 local school district or the targeted local school service area have not
37 graduated from high school. Selection criteria for grant awards shall
38 include at a minimum the educational needs of the adult population, the
39 incidence of unemployment in the county, district or local targeted school
40 service area, the degree to which community collaboration and partnership
41 demonstrate the ability to bring additional resources to the program and the
42 readiness and likelihood of the proposing organizations to establish a
43 successful family literacy project.

44 F. Each project team shall include representatives from each of the
45 following:

1 1. One or more local school districts or the county school
2 superintendent's office.

3 2. An adult education provider funded by the division of adult
4 education.

5 3. A private or public early childhood education provider.

6 4. Any other social service, governmental or private agency that may
7 provide assistance for the planning and operation of the project.

8 G. In addition to the grants prescribed in subsection H, the state
9 board of education shall authorize two grants to existing literacy programs
10 in this state that can offer training and serve as models and training
11 resources for the establishment and expansion of other programs throughout
12 this state. Existing literacy programs shall submit a grant application to
13 the state board of education in the same manner as prescribed in subsection
14 ~~I~~ K.

15 H. The state board of education shall authorize additional grants
16 through the division of adult education in areas of educational and economic
17 need.

18 I. Selected projects shall use either:

19 1. A nationally recognized family literacy model such as models
20 developed by the national center for family literacy or its successor.

21 2. A model that, in the determination of the project team and the
22 state board of education, is superior to a nationally recognized family
23 literacy model.

24 J. Eligible parents shall be instructed in adult basic education and
25 general educational development. Preschool children shall receive
26 instruction in developmentally appropriate early childhood programs. Other
27 planned, structured activities involving parents and children in learning
28 activities may be established as a part of the curriculum.

29 K. Each grant application shall include a plan to address at least the
30 following:

31 1. Identification and recruitment of eligible parents and children.

32 2. Screening and preparation of parents and children for participation
33 in the program.

34 3. Food services for program participants.

35 4. Instructional programs that promote academic and literacy skills
36 and that equip parents to provide needed support for the educational growth
37 and success of their children.

38 5. A determination that at least ten but no more than twenty parents
39 with children will enroll and be eligible for the program.

40 6. Provision of child care through either private or public providers.

41 7. A transportation plan for participants.

42 8. An organizational partnership involving at a minimum a common
43 school, a private preschool provider and an adult education program funded by
44 the department of education.

1 L. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
2 GENDER, ETHNICITY OR NATIONAL ORIGIN.

3 M. THE STATE BOARD OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30
4 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF
5 PARENTS WHO APPLIED TO PARTICIPATE IN A PROGRAM UNDER THIS ARTICLE AND THE
6 TOTAL NUMBER OF PARENTS WHO WERE NOT ELIGIBLE UNDER THIS ARTICLE BECAUSE THE
7 PARENT WAS NOT AN ELIGIBLE PARENT AS DEFINED IN SECTION 15-191, PARAGRAPH 1,
8 SUBDIVISION (c).

9 Sec. 2. Section 15-232, Arizona Revised Statutes, is amended to read:
10 15-232. Division of adult education; duties

11 A. There is established a division of adult education within the
12 department of education, under the jurisdiction of the state board for
13 ~~vocational and technological~~ OF education, which shall:

14 1. Prescribe a course of study for adult education in school
15 districts.

16 2. Make available and supervise the program of adult education in
17 other institutions and agencies of this state.

18 3. Adopt rules for the establishment and conduct of classes for
19 immigrant and adult education, including the teaching of English to
20 foreigners, in school districts.

21 4. Devise plans for establishment and maintenance of classes for
22 immigrant and adult education; including the teaching of English to
23 foreigners, stimulate and correlate the Americanization work of various
24 agencies, including governmental, and perform such other duties as may be
25 prescribed by the state board of education and the superintendent of public
26 instruction.

27 5. Prescribe a course of study to provide training for adults to
28 continue their basic education to the degree of passing a general equivalency
29 diploma test or an equivalency test approved by the state board of education.

30 B. THE DEPARTMENT OF EDUCATION SHALL PROVIDE CLASSES UNDER THIS
31 SECTION ONLY TO ADULTS WHO ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED
32 STATES OR ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES. THIS
33 SUBSECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER,
34 ETHNICITY OR NATIONAL ORIGIN.

35 C. THE DEPARTMENT OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30
36 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF
37 ADULTS WHO APPLIED FOR INSTRUCTION AND THE TOTAL NUMBER OF ADULTS WHO WERE
38 DENIED INSTRUCTION UNDER THIS SECTION BECAUSE THE APPLICANT WAS NOT A CITIZEN
39 OR LEGAL RESIDENT OF THE UNITED STATES OR WAS NOT OTHERWISE LAWFULLY PRESENT
40 IN THE UNITED STATES.

1 Sec. 3. Section 15-1803, Arizona Revised Statutes, is amended to read:
2 15-1803. Alien in-state student status

3 A. An alien is entitled to classification as an in-state refugee
4 student if such person has been granted refugee status in accordance with all
5 applicable laws of the United States and has met all other requirements for
6 domicile.

7 B. IN ACCORDANCE WITH THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT
8 RESPONSIBILITY ACT OF 1996 (P.L. 104-208; 110 STAT. 3009), A PERSON WHO WAS
9 NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WHO IS WITHOUT LAWFUL
10 IMMIGRATION STATUS IS NOT ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT
11 PURSUANT TO SECTION 15-1802 OR ENTITLED TO CLASSIFICATION AS A COUNTY
12 RESIDENT PURSUANT TO SECTION 15-1802.01.

13 C. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31
14 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL
15 NUMBER OF STUDENTS WHO WERE ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT
16 AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT ENTITLED TO CLASSIFICATION AS
17 AN IN-STATE STUDENT UNDER THIS SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN
18 OR LEGAL RESIDENT OF THE UNITED STATES OR IS WITHOUT LAWFUL IMMIGRATION
19 STATUS.

20 Sec. 4. Title 15, chapter 14, article 2, Arizona Revised Statutes, is
21 amended by adding section 15-1825, to read:

22 15-1825. Prohibited financial assistance; report

23 A. A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES, WHO IS WITHOUT
24 LAWFUL IMMIGRATION STATUS AND WHO IS ENROLLED AS A STUDENT AT ANY UNIVERSITY
25 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR AT ANY COMMUNITY
26 COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE DISTRICT IN THIS STATE
27 IS NOT ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP
28 ASSISTANCE, FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL
29 ASSISTANCE THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES.

30 B. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31
31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL
32 NUMBER OF STUDENTS WHO APPLIED AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT
33 ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANT, SCHOLARSHIP ASSISTANCE,
34 FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL ASSISTANCE
35 THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES UNDER THIS
36 SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED
37 STATES OR NOT LAWFULLY PRESENT IN THE UNITED STATES.

38 C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
39 GENDER, ETHNICITY OR NATIONAL ORIGIN.

40 Sec. 5. Section 46-801, Arizona Revised Statutes, is amended to read:
41 46-801. Definitions

42 In this chapter, unless the context otherwise requires:

43 1. "Caretaker relative" means a relative who exercises responsibility
44 for the day-to-day physical care, guidance and support of a child who
45 physically resides with the relative and who is by affinity or consanguinity

1 or by court decree a grandparent, great-grandparent, sibling of the whole or
2 half blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-uncle or
3 first cousin.

4 2. "Cash assistance" has the same meaning prescribed in section
5 46-101.

6 3. "Child" means a person who is under thirteen years of age.

7 4. "Child care" means the compensated service that is provided to a
8 child who is unaccompanied by a parent or guardian during a portion of a
9 twenty-four hour day.

10 5. "Child care assistance" means any money payments for child care
11 services that are paid by the department and that are paid for the benefit of
12 an eligible family.

13 6. "Child care home provider" means a person who is at least eighteen
14 years of age, who is not the parent, guardian, caretaker relative or
15 noncertified relative provider of a child needing child care and who is
16 certified by the department to care for four or fewer children for
17 compensation with child care assistance monies.

18 7. "Child care providers" means child care facilities licensed
19 pursuant to title 36, chapter 7.1, article 1, child care group homes
20 certified pursuant to title 36, chapter 7.1, article 4, child care home
21 providers, in-home providers, noncertified relative providers and regulated
22 child care on military installations or for federally recognized Indian
23 tribes.

24 8. "Eligible family" means CITIZENS OR LEGAL RESIDENTS OF THE UNITED
25 STATES OR INDIVIDUALS WHO ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES
26 AND WHO ARE parents, legal guardians or caretaker relatives with legal
27 residence in this state and children in their care who meet the eligibility
28 requirements for child care assistance.

29 9. "Federal poverty level" means the poverty guidelines that are
30 issued by the United States department of health and human services pursuant
31 to section 673(2) of the omnibus budget reconciliation act of 1981 and that
32 are reported annually in the federal register.

33 10. "In-home provider" means a provider who is certified by the
34 department to care for a child of an eligible family in the child's own home
35 and is compensated with child care assistance monies.

36 11. "Noncertified relative provider" means a person who is at least
37 eighteen years of age, who provides child care services to an eligible child,
38 who is by affinity or consanguinity or by court decree the grandparent,
39 great-grandparent, sibling not residing in the same household, aunt,
40 great-aunt, uncle or great-uncle of the eligible child and who meets the
41 department's requirements to be a noncertified relative provider.

42 12. "Parent" or "parents" means the natural or adoptive parents of a
43 child.

1 Sec. 6. Section 46-803, Arizona Revised Statutes, is amended to read:
2 46-803. Eligibility for child care assistance; report

3 A. The department shall provide child care assistance to eligible
4 families who are attempting to achieve independence from the cash assistance
5 program and who need child care assistance in support of and as specified in
6 their personal responsibility agreement pursuant to chapters 1 and 2 of this
7 title.

8 B. The department shall provide child care assistance to eligible
9 families who are transitioning off of cash assistance due to increased
10 earnings or child support income in order to accept or maintain
11 employment. Eligible families must request this assistance within six months
12 after the cash assistance case closure. Child care assistance may be
13 provided for up to twenty-four months after the case closure and shall cease
14 whenever the family income exceeds one hundred sixty-five per cent of the
15 federal poverty level.

16 C. The department shall provide child care assistance to eligible
17 families who are diverted from cash assistance pursuant to section 46-298 in
18 order to obtain or maintain employment. Child care assistance may be
19 provided for up to twenty-four months after the case closure and shall cease
20 whenever the family income exceeds one hundred sixty-five per cent of the
21 federal poverty level.

22 D. The department may provide child care assistance to support
23 eligible families with incomes of one hundred sixty-five per cent or less of
24 the federal poverty level to accept or maintain employment. Priority for
25 this child care assistance shall be given to families with incomes of one
26 hundred per cent or less of the federal poverty level.

27 E. The department may provide child care assistance to families
28 referred by child protective services and to children in foster care pursuant
29 to title 8, chapter 5 to support child protection.

30 F. The department may provide child care assistance to special
31 circumstance families whose incomes are one hundred sixty-five per cent or
32 less of the federal poverty level and who are unable to provide child care
33 for a portion of a twenty-four hour day due to a crisis situation of domestic
34 violence or homelessness, or a physical, mental, emotional or medical
35 condition, participation in a drug treatment or drug rehabilitation program
36 or court ordered community service. Priority for this child care assistance
37 shall be given to families with incomes of one hundred per cent or less of
38 the federal poverty level.

39 G. In lieu of the employment activity required in subsection B, C or D
40 of this section, the department may allow eligible families with teenaged
41 custodial parents under twenty years of age to complete a high school diploma
42 or its equivalent or engage in remedial education activities reasonably
43 related to employment goals.

1 H. The department may provide supplemental child care assistance for
2 department approved education and training activities if the eligible parent,
3 legal guardian or caretaker relative is working at least a monthly average of
4 twenty hours per week and this education and training are reasonably related
5 to employment goals. The eligible parent, legal guardian or caretaker
6 relative must demonstrate satisfactory progress in the education or training
7 activity.

8 I. Beginning March 12, 2003, the department shall establish waiting
9 lists for child care assistance and prioritize child care assistance for
10 different eligibility categories in order to manage within appropriated and
11 available monies.

12 J. The department shall establish criteria for denying, reducing or
13 terminating child care assistance that include:

14 1. Whether there is a parent, legal guardian or caretaker relative
15 available to care for the child.

16 2. Financial or programmatic eligibility changes or ineligibility.

17 3. Failure to cooperate with the requirements of the department to
18 determine or redetermine eligibility.

19 4. Hours of child care need that fall within the child's compulsory
20 academic school hours.

21 5. Reasonably accessible and available publicly funded early childhood
22 education programs.

23 6. Whether an otherwise eligible family has been sanctioned and cash
24 assistance has been terminated pursuant to chapter 2 of this title.

25 7. Other circumstances of a similar nature.

26 8. Whether sufficient monies exist for the assistance.

27 K. The department shall review each case at least once a year to
28 evaluate eligibility for child care assistance.

29 L. THE DEPARTMENT SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR
30 TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF FAMILIES WHO
31 APPLIED FOR CHILD CARE ASSISTANCE AND THE TOTAL NUMBER OF FAMILIES WHO WERE
32 DENIED ASSISTANCE UNDER THIS SECTION BECAUSE THE PARENTS, LEGAL GUARDIANS OR
33 CARETAKER RELATIVES WHO APPLIED FOR ASSISTANCE WERE NOT CITIZENS OR LEGAL
34 RESIDENTS OF THE UNITED STATES OR WERE NOT OTHERWISE LAWFULLY PRESENT IN THE
35 UNITED STATES.

36 M. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
37 GENDER, ETHNICITY OR NATIONAL ORIGIN.

38 N. Notwithstanding section 35-173, monies appropriated for the
39 purposes of this section shall not be used for any other purpose without the
40 approval of the joint legislative budget committee.

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 12, 20 05,
by the following vote: 33 Ayes,

19 Nays, 8 Not Voting

[Signature]
Speaker of the House
Pro Tempore
Norman L. Fyfe
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 12, 20 05,
by the following vote: 16 Ayes,

12 Nays, 2 Not Voting

[Signature]
President of the Senate
Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 12th day of May, 20 05

at 4:15 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this _____ day of _____

at _____ o'clock _____ M.
VETO

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20th day of May, 20 05,

at 3:03 o'clock P. M.

[Signature]
Secretary of State

H.B. 2030

Passed the House March 24,, 2005,

Passed the Senate May 9, 2005,

by the following vote: 33 Ayes,

by the following vote: 16 Ayes,

26 Nays, 1 Not Voting

12 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2030